

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

JAMES LEE JUSTUS

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Case No. 4:06cr86
(Judge Schneider)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 5, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Randall Blake.

On February 14, 2007, Defendant was sentenced by the Honorable Michael H. Schneider to sixty-four (64) months followed by three (3) years of supervised release for the offense of Felon in Possession of Ammunition. On December 10, 2010, Defendant completed his period of imprisonment and began service of his supervised term.

On December 7, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: the defendant shall refrain from any unlawful use of a controlled substance. The petition also asserted that Defendant violated the following standard condition: the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance or paraphernalia related to such substances, except as prescribed by a physician.

The petition alleges that Defendant committed the following acts: On June 15, August 4,

October 5, and November 30, 2011, Defendant submitted urine specimens that tested positive for methamphetamine. Laboratory testing from Alere Toxicology confirmed the positive results.

Prior to the Government putting on its case, Defendant entered a plea of true to the violations. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirteen (13) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 5th day of January, 2012.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE